

109 FERC ¶ 61,030  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Sudeen G. Kelly.

PJM Interconnection, L.L.C.

Docket Nos. ER04-474-000  
ER04-474-001

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued October 7, 2004)

1. On July 16, 2004, Industrial Power Generating Corporation (“INGENCO”), Sempra Energy Trading Corp., and Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, all doing business as Allegheny Power (Allegheny), filed an Offer of Settlement and Settlement Agreement (Settlement) in the above referenced dockets. The Settlement resolves all issues pending in this proceeding, concerning the monthly sub-transmission use charge to INGENCO for service on a portion of Allegheny’s 34.5 kV sub-transmission network under Schedule G of the INGENCO 2004 Interconnection Service Agreement. On September 2, 2004, the Settlement Judge certified the uncontested Settlement to the Commission.
2. The subject Settlement is in the public interest and is hereby approved. The Commission’s approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.
3. Within thirty (30) days from the date of this letter, the refund provided for in the Settlement will be carried out. Within fifteen (15) days after making such refund, Allegheny will file with the Commission a compliance report. Allegheny shall furnish copies of the report to the affected wholesale customer and to each state commission within whose jurisdiction the wholesale customer distributes and sells electric energy at retail.

4. This letter terminates Docket Nos. ER04-474-000 and ER04-474-001 for all parties and all issues.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

( S E A L )

Linda Mitry,  
Acting Secretary.

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ER04-474-001

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KELLY, Commissioner, dissenting in part:

For the reasons I have previously set forth in Wisconsin Power & Light Co., 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it approves a settlement that provides, in relevant part, that “...the ‘public interest’ standard, as set forth in *United Gas Pipe Line Co v. Mobile Gas Services Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), shall apply to any modification of this Settlement or the foregoing Schedule G charges and/or dates during the term of this Settlement.”

	<hr/> Sudeen G. Kelly
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